

REMARKS

Applicants wish to thank the examiner for the many courtesies extended in timely scheduling and conducting an interview on April 7, 2006, with respect to his office action letter dated January 9, 2006. Pursuant to the examiner's comments in that interview, applicants have amended the claims to correct the claim numbering format; applicants have also removed the hyphens used to signify new limitation paragraphs to improve the form of the claims.

Claim Rejections – 35 USC § 103

Claims 1, 4, 5 and 6 stand rejected under 35 USC 103(a) as unpatentable over Tait (US Pub. No. 2002/0133723, hereinafter "Tait") and in view of Misra et al (US. Pat. No. 5,757,920, hereinafter "Misra").

Claim 1 has been amended to incorporate limitations from claim 2, and an additional clarifying limitation. Amended claim 1 is now believed to be allowable over Tait and Tai in view of Misra. More particularly, as discussed in the above-referenced interview with the examiner, claim 1, as presently amended, claims:

(1) in response to an *unsuccessful* user authentication, determining whether the authentication server is in operative communication with said client; and if the authentication server is *not* in operative communication with said client:

(1a) *searching the client* for a stored authenticated credential corresponding to said user and *using* said stored authenticated credential to access an at least one secure resource *while said authentication server is not in operative communication with said client*; and

(1b) in response to not finding an authenticated credential corresponding to said user, failing the user authentication request.

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The boldface material was not previously in either claim 1 or claim 2, but has been added to more fully describe a novelty of the present invention with respect to the prior art, namely granting of access to access at least one secure resource while an authentication server is not in operative communication with said client.

These limitations are not taught by Tait and Tai in view of Misra. Tait unambiguously requires remote server verification of "ticket/credentials" before granting access, and thus requires a remote server connection to be in operative communication. See Tait's "two authentication check", at Tait paragraphs 0029-0030; Tait's "tunnel application" which is only valid during an active log in, paragraph 0055; and the regular "refresh requirements" of paragraph 0063. Granting access to secure data with remote server connections in operative communication with the client is an absolute and unambiguous requirement of Tait: any attempt to modify Tait with other teachings to remove the teaching of this requirement would thus teach away from Tait. A prior art reference may be considered to teach away from your invention when "a person of ordinary skill upon reading the reference, would be discouraged from following the path set out in the reference, or would be lead in a direction divergent from the path that was taken by applicant." In re Gurley, 27 F3rd 551, 553; 31 USPQ 2d 1130, 1131 (Fed Cir 1994). Thus, Tait cannot be modified by Misra, or by any other prior art reference (including the other references cited by the examiner in his January 9, 2006 letter: Garg et al, US Pat No. 6,327,677, hereinafter "Garg"; and McCullough, US Pat No. 6,865,574, hereinafter "McCullough"), to teach the invention claimed by amended claim 1.

More particularly, regardless of whether Garg comprehends identifying whether a connection to a server may be present, Garg does not in any sense teach providing access to secure material without the presence of a connection to such a server for verification of authorization prior to granting access to secured materials; neither does any other reference cited by the examiner. The

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law is quite clear that in order for a claimed invention to be rejected on obviousness, the prior art must suggest the modifications sought to be patented; In re Gordon, 221 U.S.P.Q. 1125, 1127 (CAFC 1984); ACS Hospital System, Inc. v. Montefiore Hospital, 221 U.S.P.Q. 929, 933 (CAFC 1984). Further, there must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself. In re Oetiker, 24 U.S.P.Q. 2nd 1443, 1445 (CAFC 1992).

Amended claims 2-9 are all directly or indirectly dependent upon amended claim 1 and, therefore, incorporate all of the limitations of amended claim 1; they are all thus believed allowable over Tait, and Tait in view of Misra, and Tait in view of Misra in view of Garg and in view of McCullough, as well.

Additionally, in the above-referenced interview, the examiner stated that movement of all of the limitations of claim 2 into claim 1 would result "in a stronger claim"; however, the examiner could not make a determination that such an amendment would necessarily result in the allowance of claim 1. Accordingly, as applicants have established above that the amendments presently incorporated into amended claim 1 are sufficient to place it into allowance over the prior art of record without the rest of the claim 2 limitations, amended claim 2 has been allowed to stand on its own as a further dependent claim from amended claim 1.

Amended claim 10 has also been amended to incorporate the limitations discussed above with respect to amended claim 1, with additional step limitations concerning the use of a gateway computer. Amended claim 10 is thus believed to be allowable over Tait, and Tait in view of Misra, and Tait in view of Misra in view of Garg and in view of McCullough, for the reasons established above. Amended claims 11-18 are all directly or indirectly dependent upon amended claim 10 and,

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therefore, incorporate all of the limitations of amended claim 10; they are all also believed allowable over Tait, and Tait in view of Misra, and Tait in view of Misra in view of Garg and in view of McCullough.

For the above reasons, each of the claims now in the application is distinguishable one from the other and over the prior art. Therefore, reconsideration and allowance of the claims are respectfully requested. It is also applicant's understanding that if the examiner does not find that the present claims are in condition for allowance, the examiner will contact the undersigned with an opportunity for further amendment before the issuance of a final rejection.

Respectfully submitted,

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